

	Comment	Response
	<b>FEDERAL</b>	
	U.S. EPA (12/13/07)	
EPA1	LORSS is a Comprehensive Everglades Restoration Plan (CERP) evaluation of the COE's proposed new water regulation schedule...	The current LORSS is not a component of CERP. In 2008, the Corps will initiate the System Operating Manual study that will revisit the Lake Okeechobee Regulation Schedule taking into consideration future CERP projects.
EPA2	(Water Quality) – We did not find any substantive modifications in the FSEIS text other than a minimal reference to the adopted FDEP Total Maximum Daily Load (TMDL) for Lake Okeechobee. For example, the Caloosahatchee write-up includes no mention of FDEP's ongoing work to propose a nutrient (TN/TP) TMDL for the Caloosahatchee Estuary by The St. Lucie Estuary discussion also does not reference the recently proposed (9/06) EPA TMDLs for portions of the SLE, or utilizing any of the affected environment information available in the IRL-South EIS.	The Corps believes that the final SEIS, Section 5.9 adequately describes the existing conditions for Lake Okeechobee and downstream estuaries. This phase of the Lake Okeechobee Regulation Schedule (LORS) modification is operational in nature, and no measurable improvements to water quality can be achieved by operational changes only. A more extensive evaluation of effects to water quality will occur during the next phase of revisiting the LORS since CERP projects will be considered at that time.
EPA3	No improvements to the SLE water quality portions of the Affected Environment chapter were found in the FSEIS.	Refer to response EPA2.
	<b>STATE</b>	
	Florida State Clearinghouse (12/19/07)	
FSC1	Based on the information contained in the FSEIS and the enclosed state agency comments, the state has determined that, at this stage, the proposed activities are consistent with the Florida Coastal Management Program (FCMP). The concerns identified by our reviewing agencies must be addressed prior to project implementation. The state's continued concurrence with the project will be based, in part, on the adequate resolution of issues identified during this and subsequent reviews. The state's final review of the project's consistency with the FCMP will be conducted during the environmental permitting stage.	As the action is strictly of an operational nature, and does not involve any new discharge or construction activity, a permit from the State of Florida is not required.
	Florida Department of Environmental Protection (letter sent through clearinghouse only)	
DEP1	1. All of the alternatives have essentially the same percentage of time within the target range lake levels as presented on Table 6-1, page 147. However, alternative E does provide fewer high water level events over 17 feet (same as alternatives B and C) but more low water events below 11 feet. It seems logical that fewer high events (2) would be preferable to more frequent low water events (23) from both a public safety and ecological perspective.	Concur. The EIS analysis does discuss the benefits of reducing the frequency of high water levels from a public health and safety and ecological perspective.

DEP2	<p>From the estuarine flow standpoint, the preferred alternative (E) performs better in meeting flows between 450 and 2800 cfs for the Caloosahatchee Estuary. However, alternative E does not perform as well as the no action or alternative C in reducing high flow events of greater than 4500 cfs. High flow events greater than 3000 cfs also occurred more frequently in the St. Lucie Estuary under alternatives A-E when compared to the no action alternative. This seems to indicate the difficulty in forecasting future weather and climate conditions, particularly the extreme events such as droughts and floods. Therefore, it is essential that the Corps, in coordination with the District and affected parties, be prepared to make decisions on lake levels using short- and long-term range weather and climate forecasts. The ability to make pulse releases that mimic rainfall events throughout the year, rather than waiting until extreme flood events occur, affords the greatest opportunity to keep the lake level within its seasonal target levels with the ability to maintain capacity for flood storage events and meet water supply needs.</p>	<p>Refer to Section 6.2.2 and Table 6-2 for estuary performance. Actually, Alternative D and E (recommended plan) equaled the No Action alternative in the &gt;4500 cfs flow class for the Caloosahatchee. Regarding the St. Lucie Estuary, all alternatives are either improved or, equal to performance of reducing high flows greater than &gt;3000 cfs when compared to the No Action alternative. Regarding pulse releases, Alternative E, the recommended plan, allows long-term, low-volume releases to the estuaries, with the capability to initiate releases at lower levels than under the current regulation schedule. The low-volume releases, referred to as pulse releases and base flow releases, are intended to manage lake levels while reducing the potential for future prolonged high-volume releases.</p>
DEP3	<p>2. The Corps has determined that the incorporation of a managed recession of Lake Okeechobee is not needed for the LORS as the schedule is considered an <i>interim plan</i> and that a natural recession occurred in 2006 and 2007. Interim is defined in the document as depending on the adoption of a new LORS as a component of the system-wide operating plan to accommodate the construction of <i>Acceler8</i> and <i>Band 1 CERP</i> components or the completion of the Herbert Hoover Dike seepage berm or equivalent dike repairs in reaches 1, 2, or 3. We ask that this decision be reconsidered as the projects used to define the <i>interim</i> status of the plan will not be completed in the short term due to the likelihood of schedule changes and funding. Having the National Environmental Policy Act managed recession analysis completed now will allow the Corps to make the recession without additional documentation.</p>	<p>If the need for a managed recession occurs under the new schedule, an analysis similar to the one in Appendix F of the final EIS will need to be completed. At that time, the Corps will evaluate the need for a NEPA analysis.</p>

	Florida Department of Agriculture and Consumer Services (12/17/07)	
FDAC 1	<p>Early in the study process, it was believed that the negative water supply impacts of a lower lake schedule would be lessened by the South Florida Water Management District lowering the water shortage “trigger line.” However, as was realized rather late during the regulation schedule study, such an action would have severe, negative impacts on the Lake Okeechobee Minimum Flow and Level (MFL). When these policy concerns became apparent, one might have expected further study regarding water supply impacts and potential MFL violations, and their associated economic and ecological consequences, resulting from a lower lake schedule. Instead, the study moved forward to completion, all at a time that Lake Okeechobee was setting records for historic low levels every day. Because these issues were not given adequate consideration in the regulation schedule study, the SEIS fails to address significant impacts of the proposed schedule; in particular, we believe it substantially understates the economic impact of water supply reductions resulting from the proposed schedule.</p>	<p>In anticipation that the SFWMD implements water shortage restrictions under its current rules (assumes no changes to the current SFWMD Water Shortage Plan in response to the preferred alternative), the Corps completed an analysis for water supply performance under the current rules. The analysis can be found in Section 6.12.1 of the final SEIS.</p>
FDAC 2	<p>Agriculture in the Lake Okeechobee Service Area (LOSA) is facing considerable uncertainty regarding water supply availability in the immediate future, and the proposed schedule serves to extend such uncertainty indefinitely. The significant economic losses thus far experienced by agriculture in the LOSA may well reach unacceptable levels before we see an improvement in water supply availability. In order to remain in business, agriculture operations must have some level of certainty. The only certainty provided by the proposed schedule is the likelihood that the LOSA will face more frequent and severe water shortages of longer duration, as compared to the current schedule. According to the SEIS, the proposed schedule will double the frequency and duration of water supply shortages, as well as increase their severity.</p>	<p>The decision-making process for Lake Okeechobee water management operations considers all Congressionally-authorized project purposes, including water supply conditions and needs. Except for navigation, the SFWMD allocates water to various users within the Beneficial Use Sub-Band of the proposed LORSS regulation schedule. Water supply release volumes are not prescribed by the USACE Lake Okeechobee Regulation Schedule.</p> <p>When Lake Okeechobee stages are in the lower bands of the proposed regulation schedule, releases may occur less than “maximum practicable,” depending on conditions. The rationale for less than “maximum practicable” releases may include reducing the probability of entering Water Shortage Management Band (based on short-term and long-term climate forecast) or responding to ecological considerations in Lake Okeechobee or the coastal estuaries, as examples.</p>

		<p>The SEIS does not state that “the proposed schedule will double the frequency and duration of water supply shortages.” The SEIS documents the uncertainty of SFWMD water shortage management rules during the USACE preparation of the LORSS revised draft SEIS and final SEIS (sections 2.3, 4.4, and 6.12). The SFWMD rule-making process and details for implementation of the modified water shortage management plan were completed following publication of the Final SEIS. Due to this uncertainty with the SFWMD rule-making process and the schedules to release the LORSS revised draft SEIS and Final SEIS, the bracketed range of potential water supply performance between the existing SSM trigger line (along with existing water shortage management plan) and the earlier-proposed SFWMD refined LOWSM plan was included in the USACE water supply performance evaluation within the SEIS.</p> <p>The SEIS noted that the SFWMD water shortage rule is expected to provide water supply performance within the bracketed range that was evaluated in the LORSS revised draft SEIS and final SEIS, and water supply performance is expected to fall closer to the evaluation for the existing water shortage rules than to the performance with the LOWSM. Changes to the Water Control Plan to reflect any modifications by the SFWMD to its water shortage management rules can be accommodated under the SEIS analysis so long as the SFWMD can demonstrate they do not result in impacts outside the bracketed performance range.</p> <p>As noted in the SEIS, the SFWMD held a scheduled rule workshop in late summer, 2007.</p>
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	Florida Department of Transportation (comment sent through clearinghouse only)	
FDOT 1	<p>The Florida Department of Transportation (FDOT) notes that coordination with the South Florida Water Management District is anticipated on the construction revisions to Canal C-43 (Townsend Canal, MP 0.50) at SR 80 (Section 07010, Bridges 070066 &amp; 070067). If the project results in impacts to FDOT roadways, the U.S. Army Corps of Engineers will need to obtain all necessary permits from the FDOT's local operations center prior to construction activities occurring within state road right-of-way.</p>	<p>The action will be operational only, and will not result in impacts to FDOT roadways.</p>

	South Florida Water Management District (12/17/07)	
WMD 1	<p>1. The Proposed changes to the District's Water Shortage Plan (Chapter 40E-21 F.A.C.) were officially adopted on November 15, 2007. The timeframe to challenge the proposed rule changes has expired and the rule became officially effective in mid-November. I have attached a copy, per discussions from the last Project Delivery Team meeting on December 4, 2007, of the relevant excerpts of this rule for your information. Please note these rule changes did not affect the District's existing Water Shortage Trigger (WST) line, as found in Rule 40E-22.332, Fla. Admin. Code. It should be noted that in tables 6-16 and 6-17 on pages 182 and 183 in the FSEIS, the T3 alternative in both tables should read T3 (WST) instead of T3 (SSM), in accordance with the revised Lake Okeechobee Water Shortage Management Plan summarized in Appendix G of the FSEIS.</p>	Comments acknowledged.
WMD 2	<p>2. The District was encouraged that the long-awaited US Fish and Wildlife Service (FWS) Biological Opinion determined that the interim LORS did not constitute a jeopardy opinion for the snail kite.</p>	Comment acknowledged.
WMD 3	<p>3. The District may be able to provide assistance to the Corps in support of the following recommendations provided by FWS in their Biological Opinion:</p> <p>a. While FWS does not anticipate that this interim schedule would result in an incidental take, monitoring of changes in the vegetation patterns in the littoral zone will be required between an established base period (2003) and 2010. The 2003 base period map is a District product, and future vegetation maps may be produced through a District contract, which will assist FWS in determining if there was an increase in optimal snail kite habitat at the end of the schedule's interim period.</p>	Comments acknowledged.
WMD 4	<p>b. The recommendation to implement an apple snail breeding program for re-introduction into the Lake is another effort that the District is pursuing in cooperation with Harbor Branch Oceanographic Institute. Re-establishment of apple snail populations in lakes that have been severely impacted by extreme low lake levels as a result of droughts has generated much interest recently. In Lake Okeechobee's situation, low lake stages will be more common until the Herbert Hoover Dike improvements can be made and stages can be increased incrementally. The District will provide your staff with the data and results of its experimental apple snail hatchery project when they become available.</p>	Comments acknowledged.

	COUNTY/CITY/DRAINAGE DISTRICTS	
	Lee County Board of County Commissioners (12/11/07)	
Lee1	<p>Page v and Page 10: This section discusses the fact that in Fiscal Year 2008, the Corps and SFWMD will look at the overall system operating manual (“SOM”) for the Central and South Florida (“C&amp;SF”) Project. This effort will commence to determine if any revisions are possible in light of implementation of CERP Band 1 projects as well as possible modification due to HHD rehabilitation. The County feels this will be the first opportunity to revisit this Regulation Schedule and urges the Corps to prioritize reviewing the Regulation Schedule in conjunction with this effort.</p>	Comment acknowledged.
Lee2	<p><b>Make-up releases of water</b></p> <p>Section 3.4: In our previous comments we requested that in the context of make-up releases for water (albeit limited to 2,800 cfs), consideration should be given to seasonality and estuary conditions equitably with the other factors listed. This request has been ignored.</p>	Refer to Section 3.5. The decision-making process to determine quantity, timing and duration of potential releases from Lake Okeechobee includes consideration of various information related to water management. This information includes but is not necessarily limited to C&SF Project conditions, historical lake levels, estuary conditions/needs, lake ecology conditions/needs WCA water levels, STA available capacity, current climate conditions climate forecasts, hydrologic outlooks, projected lake level rise/recession, and water supply conditions/needs.
Lee3	<p><b>Additional operational flexibility</b></p> <p>Section 3.6: The Draft LORSS SEIS discussed the use of “additional operational flexibility” to account for unanticipated conditions or scenarios outside of the typical LORS decision tree. The County previously commented that the Corps should prepare National Environmental Policy Act documentation at the time its makes the decisions to use these operations, but this comment was ignored. There is not even any discussion of how parties will be notified if the Corps is considering instituting “additional operational flexibility” protocols.</p>	Refer to Section 3.6. Each event to be addressed by additional operational flexibility is unique, and releases to be implemented will be defined by a desired outcome or time period. The public will be notified of the planned releases, desired outcome, and implementation time period by the Corps’ normal water management notification process (press release, internet webpage). Additionally, the environmental effects for each situation have been considered in the FSEIS and will be consistent with Section 3.6 including table 3-1.

Lee4	<p><b>Additional water storage lands</b></p> <p>Section 4.5: The Corps continues to consider the use of additional water storage lands (estimated at 150,000 to 450,000 acre-feet of storage) as a state action. The County disagrees that the use of these lands is strictly a state action because they are designed to address problems caused by the Corps' management of the Lake, and the Corps will have to release water to these storage lands. Our previous comments focused on the fact that the decision process for use of these lands should be clear in the Final LORSS SEIS. This comment has still not been addressed.</p> <p>It appears as though the same analysis of benefits is included in the Final LORSS SEIS. The County recognizes that there are trade-offs in the use of these lands, but continues to emphasize the fact that the Corps and SFWMD must work together to clearly identify how these lands will be used, when and what the optimal operations of these lands will be.</p>	<p>The Corps' position, and coordination documentation, for storage of lake water on public/private lands can be found in Section 4.5.1, and Appendix H. The Corps is strongly supportive of this initiative and continues to work with the SFWMD on ways to proceed with this action.</p>
Lee5	<p><b>Water quality</b></p> <p>Section 5.9: This analysis is still significantly lacking in the Final SEIS. The discussion of nutrient loads does not analyze the effects of loads on ecological factors or evaluate the different alternatives' effects on nutrient loading to the Caloosahatchee Estuary. Analysis of impacts on threatened and endangered species is lacking. The Final SEIS continues to downplay the water quality implications of a new Regulation Schedule, particularly with respect to downstream receiving waters and contains no analysis on the incidence of algal blooms. The lack of attention to this issue is illustrated by the use of "estimated 2000 existing water and nutrients loads" in Table 5-2. More recent data, including that reflecting the recent hurricanes in the last 3 years, would likely depict a different apportionment of loading from Lake Okeechobee versus the Caloosahatchee watershed.</p>	<p>This phase of the Lake Okeechobee Regulation Schedule (LORS) modification is operational in nature, and no measurable improvements to water quality can be achieved by operational changes only. A more extensive evaluation of effects to water quality will occur during the next phase of revisiting the LORS since CERP projects will be considered at that time.</p>



Lee6	<p><b>Water Shortage Triggers</b></p> <p>Page 17, Section 4.4 &amp; Appendix G: These sections identify the 3 various efforts to develop a LOWSM Plan that could be used within the context of the LORSS and still meet 1 in 10 demands for users as well as the Lake Okeechobee Minimum Flow and Level. There is still a great amount of uncertainty as to the result on available water supply to meet environmental and urban demands.</p> <p>The Draft LORSS SEIS utilized a “refined” LOWSM Plan whereas this Final LORSS uses a “modified” LOWSM Plan. This “modification” provides no more level of certainty for urban or environmental water supply than was outlined in the previous draft. The concept is that with this “modified” LOWSM Plan, the water supply performance is somewhere in between the existing water shortage triggers and what would happen if the water shortage triggers were initiated .8 of a foot lower. The performance is still in a “bracketed range” and uncertain at best.</p> <p>The Final LORSS SEIS in many sections states that the operational details of this “modified” LOWSM Plan are not yet complete (yet will be before the LORSS will be used). Further, the Final LORSS SEIS states that this new “modified” LOWSM Plan will result in performance closer to that experienced with the existing water shortage rules than the performance with the prior version of LOWSM. This is extremely problematic because all of the water supply modeling shows more impact to users, and the environment, under the existing rules than with any version of LOWSM.</p> <p>The uncertainty surrounding water supply performance on the low end of the Regulation Schedule was raised by numerous stakeholders in the comments regarding the Draft LORSS SEIS. While the Corps and the SFWMD have made some efforts to adopt a water shortage rule that would provide more certainty on the effect of this LORS, the result is that the same level of uncertainty exists on the performance during low water levels for people and the environment.</p> <p>This has particular import to the Caloosahatchee Estuary. The performance is either a reduction from 198 to 131 months of flows under 450 cfs or it could be worse using the existing water shortage triggers as indicated on page E-42-43. Although this analysis is not specific to flows under 450 cfs for the Caloosahatchee, it is clear that the existing Supply Side Management line worsens performance for all interests. Finally, there will be no more insight into the actual water supply performance, because Appendix G describes the fact that the operational details and Water Control Plan are still being finalized. As long as any additional changes fall within the range of performance comparing the existing water shortage triggers with dropping the water shortage line by .8 of a foot, then the Final LORSS SEIS captures those impacts. If those operational details and Water Control Plan result in different performance, the public will not be able to scrutinize those impacts before the LORSS becomes effective.</p>	<p>Within the water supply evaluation provided in Appendix E of the Final SEIS, the following information is provided:</p> <p>Alternative T3 with SSM does demonstrate a small increase in average annual regulatory discharge to the Caloosahatchee (2.7 percent increase), St. Lucie (3.4 percent increase), and L-8 (4.0 percent increase) regulatory outlets from Lake Okeechobee. The increased flows can trigger additional high volume discharges to the estuaries, but the monthly flow distribution is not significantly changed from the Alternative T3 with LOWSM recommended plan simulation (also referred to as Alternative E in the SEIS), noting that flows of comparable volumes may tend to fall on either side of the performance measure criteria (2800 or 4500 cfs for the Caloosahatchee Estuary, 2000 or 3000 cfs for the St. Lucie Estuary).</p> <p>Select performance measures have been summarized; the complete performance measure set is available on the USACE LORSS study web page previously cited (the performance measure set includes “alt1bS2-T3-exSSM” in the title and the abbreviation of “T3exSSM” on the performance measure set graphics). Additional documentation is provided in sections 2.3 and 4.4 and Appendix G of the SEIS document.</p> <p>Based on a review of the full performance measure output data for the “Alternative T3 with SSM” simulation on the USACE LORSS study web page, the number of months with mean monthly flow less than 450 cfs at the Caloosahatchee Estuary is summarized: 131 months for Alternative T3 (Alternative E); 127 months for Alternative T3 with SSM. As stated above, the monthly flow distribution is not significantly changed from the recommended</p>
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		<p>plan simulation.</p> <p>The decision-making process for Lake Okeechobee water management operations considers all Congressionally-authorized project purposes, including water supply conditions and needs. Except for navigation, the SFWMD allocates water to various users within the Beneficial Use Sub-Band of the proposed LORSS regulation schedule. Water supply release volumes are not prescribed by the USACE Lake Okeechobee Regulation Schedule.</p> <p>The SEIS documents the uncertainty of SFWMD water shortage management rules during the USACE preparation of the LORSS revised draft SEIS and final SEIS (sections 2..3, 4.4, and 6.12). The SFWMD rule-making process and details for implementation of the modified water shortage management plan were completed following publication of the Final SEIS. Due to this uncertainty with the SFWMD rule-making process and the schedules to release the LORSS revised draft SEIS and Final SEIS, the bracketed range of potential water supply performance between the existing SSM trigger line (along with existing water shortage management plan) and the earlier-proposed SFWMD refined LOWSM plan was included in the USACE water supply performance evaluation within the SEIS.</p> <p>The SFWMD has not provided the USACE with documentation of water supply performance that would be expected under the final SFWMD water shortage management plan rules if the proposed LORSS regulation schedule is adopted.</p>
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		<p>To summarize, during the LORSS alternative analysis based on modeling results, the Corps was able to determine that the WST only affects water supply, not estuary or greater Everglades performance.</p>
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	City of Sanibel (12/17/07)	
San1	There remain several important mitigation measures that the agency could have considered. These mitigation measures include: (1) improving the analysis of adverse environmental impacts in the LORS Study; (2) expanding water quality and ecological monitoring in the Caloosahatchee River and Estuary; (3) incorporating into the LORSS relevant CERP performance measures designed specifically for the estuaries; and (4) incorporating the emergency water storage initiative into LORSS.	(1) The Corps acknowledges your comment. However, the Corps believes that Section 6, Environmental Effects, discusses in detail, the environmental impacts of the alternatives. Evaluations of the alternatives were made by comparing the modeling results for each alternative (as expressed in performance measure output) with the No Action Alternative. (2) A more extensive evaluation of effects to water quality will occur during the next phase of revisiting the LORS since CERP projects will be considered at that time. (3) CERP performance measures for the estuaries were utilized during the LORSS (refer to Section 4 of the final SEIS for details). (4) The Corps' position, and coordination documentation, for storage of lake water on public/private lands can be found in Section 4.5.1, and Appendix H. The Corps is strongly supportive of this initiative and continues to work with the SFWMD on ways to proceed with this action.
San2	The City requests that the Corps take the necessary steps now to update its data and modeling resources so that adequate environmental impacts analysis may be performed in the coming years to support the evaluation of proposed alternatives for the 2010 Lake schedule.	The Corps will utilize the best available scientific data and tools during the next phase of revisiting the Lake Okeechobee Regulation Schedule. The next phase, referred to as the System Operating Manual (SOM) Study, is expected to begin in 2008.
San3	Therefore, the City requests the Corps to incorporate salinity, sediment transport, nutrient, and eutrophication modeling into the LORSS to improve the impacts analysis for the regulation schedule.	As with LORSS, an interagency, multidisciplinary Project Delivery Team (PDT) will be formed for the SOM Study. The PDT will assist in developing/selecting performance measures to predict performance of alternative plans. The performance measures will then be used in the environmental impact analysis.

San4	Therefore, the City requests that the Corps commit to compiling a full suite of water quality information from all available data sources, instituting additional monitoring programs when necessary, and using this data to assess the performance of past, present, and future Lake schedules. Specific suggestions are set forth below.	The Corps will utilize the best available scientific data and tools during the next phase of revisiting the Lake Okeechobee Regulation Schedule.
San5	For the 2010 regulation schedule study, the City again requests the agency to replace the deficient occurrence and duration PMs with the existing CERP PMs that were designed specifically for analyzing water quality issues in the Northern estuaries. The Corps should use the CERP PMs in addition to enhancing its modeling measures and data collection activities.	As with the LORSS, an interagency, multidisciplinary Project Delivery Team (PDT) will be formed for the System Operating Manual (SOM) study, which you refer to as the 2010 schedule study. The PDT will be responsible for developing performance measures and/or determining if existing CERP performance measures should be used.
San6	In light of the imminent availability of these storage lands and their ability to protect the estuaries while simultaneously replenishing much needed water supplies in this time of extreme drought, the Corps should immediately incorporate into the Lake schedule operational guidance for releases to identified storage areas.	The Corps' position, and coordination documentation, for storage of lake water on public/private lands can be found in Section 4.5.1, and Appendix H. The Corps is strongly supportive of this initiative and continues to work with the SFWMD on ways to proceed with this action.
San7	The City also requests that the Corps establish a stakeholder group to help develop and incorporate the water storage initiative into the LORSS.	As part of developing the new regulation schedule, it is the Corps' desire to have a periodic (to be determined, perhaps every other week, initially) phone conferences with various state, local, and tribal stakeholders. The call is meant to provide stakeholders the opportunity to provide input to the Corps' water management section. This stakeholder phone conference would be an avenue to discuss and consider the lands water storage initiative when conditions warrant.
	Lake Worth Drainage District (12/17/07)	
LWDD 1	While the LWDD recognizes that the U.S. Army Corps of Engineers ("Corps") changes to the Lake's Regulation Schedule have been limited without additional water storage projects coming online and without improvements to the Herbert Hoover Dike, the impacts of this lower Regulation Schedule on LWDD creates a greater risk to our ability to receive water in times of drought. LWDD can still not support this Regulation Schedule for Lake Okeechobee.	Comment acknowledged.

<p>LWDD 2</p>	<p><b><u>Potential future revisions to the Regulation Schedule</u></b></p> <p>Page v and Page 10: This section discusses the fact that in Fiscal Year 2008, the Corps and SFWMD will look at the overall system operating manual ("SOM") for the Central &amp; Southern Florida Project. This effort will determine if any revisions to the SOM are possible in light of implementation of CERP Band 1 projects as well as possible modification due to HHD rehabilitation. The LWDD feels this will be the first opportunity to revisit the LORSS and supports prioritizing reviewing the Lake's Regulation Schedule in conjunction with this SOM update effort.</p>	<p>Comment acknowledged.</p>
<p>LWDD 3</p>	<p><b><u>Make-Up Releases of Water and Additional Operational Flexibility</u></b></p> <p>Section 3.4: In our previous comments we requested that the operations, protocols and details of make-up water releases be clarified. It does not appear as though any clarification has been made on these operations.</p> <p>Section 3.6: The Draft LORSS SEIS discussed the use of "additional operational flexibility" to account for unanticipated conditions or scenarios outside of the typical LORSS decision tree. The public involvement in these particular decisions must be clarified. At a minimum, there is still no discussion of how parties will be notified if the Corps is considering instituting "additional operational flexibility" protocols.</p>	<p>Referring to comment in Section 3.4. The use and operational protocols have been defined in the final SEIS and will be further defined in more detail in the Water Control Plan.</p> <p>Referring to comment in Section 3.6. Each event to be addressed by additional operational flexibility is unique and releases to be implemented will be defined by a desired outcome or time period. The public will be notified of the planned releases, desired outcome, and implementation time period by the Corps' normal water management notification process (press release, internet webpage).</p>
<p>LWDD 4</p>	<p><b><u>Additional Water Storage Lands</u></b></p> <p>Section 4.5: The Corps continues to consider the use of additional water storage lands (estimated at 150,000 to 450,000 acre-feet of storage) as a state action. The LWDD does not agree that the use of these lands is strictly a state action due to the fact that they are designed to address problems caused by the Corps' management of the Lake. Our previous comments focused on the fact that the decision process for use of these lands should be clear in the Final LORSS SEIS. This comment has not been addressed.</p> <p>It appears as though the same analysis of benefits is included in the Final SEIS. Clearly there are trade-offs in the use of these lands. The LWDD continues to emphasize the fact that the Corps and SFWMD must work together to clearly identify how these lands will be used, when and what the optimal operations of these lands will be.</p>	<p>The Corps' position, and coordination documentation, for storage of lake water on public/private lands can be found in Section 4.5.1, and Appendix H. The Corps is strongly supportive of this initiative and continues to work with the SFWMD on ways to proceed with this action.</p>



LWDD 5	<p><b><u>Impacts to water supply</u></b></p> <p>There still remains impact to the Lower East Coast Region's water supply, which includes the LWDD area, if this Regulation Schedule is adopted.</p>	Comment acknowledged.
LWDD 6	<p>Page 178: Impacts in the LECSA-1 are at 5 years of cutbacks for the current Water Supply and Environment Regulation Schedule, and the same for the TSP under LOWSM. With the existing water shortage triggers and the TSP, this increases to 6 years of cutbacks.</p>	Comment acknowledged.
LWDD 7	<p>Page E-41-42: The trends show one more month of cutbacks (between the No-Action and the TSP) in the LECSA2 in that there are 87 months of cutbacks under the current WSE Regulation Schedule and this impact increases to 88 months of cutbacks under the TSP. All alternatives show reduced availability of Lake Okeechobee water for Lower East Coast water supply needs during extreme dry conditions when the Lake Okeechobee stage is lower than the "No Action Alternative" stage.</p>	<p>Comment acknowledged.</p> <p>The information provided in the comment is excerpted from Appendix E of the SEIS.</p>
LWDD 8	<p>Page E-43: Under the prior version of LOWSM 2006, the TSP showed 10 more months of cutbacks for LECSA1 and 7 more months of cutbacks for LECSA2. Now the use of the "modified" LOWSM in this Final SEIS with the statements that performance is closer to the existing rules and conditions is even more disconcerting as it appears that the document is stating that the impacts will be as dramatic as proposed for LOWSM 2006. <i>See discussion below regarding Water Shortage Triggers.</i></p>	<p>Based on our understanding of your comment, we are responding with the following:</p> <p>Appendix E does note that if no rule-making revisions by the SFWMD are implemented to accompany the proposed LORSS regulation schedule ("Alternative T3 with SSM"), LECSA1 and LECSA2 water supply performance would show 10 and 7 additional months under water supply cutback, respectively, compared to the No Action Alternative. By comparison, only 1 additional month under cutback is shown for both LECSA1 and LECSA2 for the proposed plan with the 2006 SFWMD LOWSM proposal, compared to the No Action Alternative.</p> <p>The decision-making process for Lake Okeechobee water management operations considers all Congressionally-authorized project purposes, including water supply conditions and needs. Except for navigation, the SFWMD allocates water to various users within the Beneficial Use Sub-Band of the proposed LORSS regulation schedule. Water</p>

		<p>supply release volumes are not prescribed by the USACE Lake Okeechobee Regulation Schedule.</p> <p>The SEIS documents the uncertainty of SFWMD water shortage management rules during the USACE preparation of the LORSS revised draft SEIS and final SEIS (sections 2.3, 4.4, and 6.12). The SFWMD rule-making process and details for implementation of the modified water shortage management plan were completed following publication of the Final SEIS. Due to this uncertainty with the SFWMD rule-making process and the schedules to release the LORSS revised draft SEIS and Final SEIS, the bracketed range of potential water supply performance between the existing SSM trigger line (along with existing water shortage management plan) and the earlier-proposed SFWMD refined LOWSM plan was included in the USACE water supply performance evaluation within the SEIS.</p> <p>The SFWMD has not provided the USACE with documentation of water supply performance that would be expected under the final SFWMD water shortage management plan rules if the proposed LORSS regulation schedule is adopted.</p>
LWDD 9	<p><b><u>Water Shortage Triggers</u></b></p> <p>Page 17, Section 4.4 &amp; Appendix G: These sections identify the 3 various efforts to establish a Regulation Schedule based on a water shortage trigger line that has admittedly been a moving target. The SFWMD's efforts to develop a LOWSM Plan that could be used within the context of the LORSS, and still meet 1 in 10 demands for users as well as the Lake Okeechobee Minimum Flow and Level, are described in the Final LORSS SEIS. While updated in terms of the Plan that will be used, and providing some more explanation on the evolution of those planning efforts to establish the trigger line, there is still a great amount of uncertainty as to the impacts to water supply to meet both environmental and urban demands.</p>	<p>As discussed in Section 4.4.1 in the final SEIS, due to the uncertainty of the SFWMD's rule making during the development of the LORSS SEIS, the Corps conducted modeling analysis to quantify the potential effect on water supply performance if no change to the existing rules was made. The results of this modeling output, used to determine effects to water supply, can be found in Section 6.12. The final SEIS does capture the effects to water supply based on no change to the existing water shortage rule.</p>



LWDD 10	The Draft LORSS SEIS utilized a “refined” LOWSM Plan whereas this Final LORSS uses a “modified” LOWSM Plan. This “modification” has provided no more level of certainty for urban or environmental water supply than was outlined in the Draft LORSS SEIS. The concept is that with this “modified” LOWSM Plan, the water supply performance is somewhere in between the existing water shortage triggers and what would happen if the water shortage triggers were initiated .8 of a foot lower. The performance is still in a “bracketed range”, as was the case with the Draft LORSS SEIS and is uncertain at best.	Refer to LWDD 9.
LWDD 11	The Final LORSS SEIS in many sections states that the operational details of this “modified” LOWSM Plan are not yet complete (yet will be before the LORSS will be used). Further, the Final LORSS SEIS states that this new “modified” LOWSM Plan will result in performance closer to that experienced with the existing water shortage rules than the performance with the prior version of LOWSM. This is problematic because all of the water supply modeling shows more impacts to both users and the environment, under the existing rules than with any version of LOWSM.	Comment acknowledged.
LWDD 12	The uncertainty surrounding water supply performance on the low end of the Regulation Schedule was raised by numerous stakeholders in the comments regarding the Draft LORSS SEIS. While the Corps and the SFWMD have made efforts to adopt a water shortage plan and rule that would provide more certainty on the effect of this LORSS, the result is that the same level of uncertainty exists on the performance during low water levels for people and the environment because the actual performance is somewhere within a “bracketed” range.	As discussed in Section 4.4.1 in the final SEIS, due to the uncertainty of the SFWMD’s rule making during the development of the LORSS SEIS, the Corps conducted modeling analysis to quantify the potential effect on water supply performance if no change to the existing rules was made. The results of this modeling output, used to determine effects to water supply, can be found in Section 6.12.
LWDD 13	On page E-44, the document states, “It is anticipated that the SFWMD will provide a summary of performance changes to the 2007 LORSS SEIS recommended plan evaluation based on the final LOWSM plan, compared to the September 2006 draft LOWSM plan previously provided by SFWMD and assumed in place for the 2007 LORSS SEIS alternative evaluation SFWMM simulations.” Unfortunately, this substantiates the fact that there will be no more insight into the actual water supply performance, because Appendix G describes the fact that the operational details and Water Control Plan are still being finalized. As long as any additional changes fall within the range of performance comparing the existing water shortage triggers with dropping the water shortage line by .8 of a foot, then the Final LORSS SEIS purportedly captures those impacts. If those operational details and Water Control Plan result in different performance, the public will not be able to scrutinize those impacts before the LORSS becomes effective. The bottom line is that we can only be certain there will be more risk to water supply; the actual risk is still unknown.	Please refer to response above. The final SEIS does capture the effects to water supply based on no change to the existing water shortage rule.

	City of Ft. Lauderdale (12/18/07)	
FTL 1	<b>Timing of new Regulation Schedule.</b> In the Draft LORSS SEIS, many questions were raised regarding the length of time this "interim" Regulation Schedule would be in effect. The Corps' response to those questions is that this Regulation Schedule will be in effect until either 1) implementation of a new Regulation Schedule incorporating Comprehensive Everglades Restoration Plan ("CERP") Band 1 and/or Acceler8 projects or 2) completion of Herbert Hoover Dike ("HHD") seepage berm construction/repairs for reaches 1, 2 and 3. The City sees this as a small improvement in terms of the length of time this schedule will be in effect (albeit still including some level of uncertainty as to when these two conditions may arise).	Comment acknowledged.
FTL 2	<b>Water shortage triggers.</b> The Final LORSS SEIS attempts to clarify the use of the new "modified" Lake Okeechobee Water Shortage Management ("LOWSM") Plan recently adopted by the South Florida Water Management District ("SFWMD") to control water shortage cutbacks. Further modifications to this LOWSM Plan are likely in light of new efforts by the SFWMD to revise its overall drought management policies. Additionally, the operational details (Water Control Plan) for this LOWSM Plan have not been evaluated in this Final LORSS SEIS. While the Regulation Schedule accounts for some level of flexibility to capture changes to water shortage policies and rules in the future, the end result is still great uncertainty for the City during drought events.	As discussed in Section 4.4.1 in the final SEIS, due to the uncertainty of the SFWMD's rule making during the development of the LORSS SEIS, the Corps conducted modeling analysis to quantify the potential effect on water supply performance if no change to the existing rules was made. The results of this modeling output, used to determine effects to water supply, can be found in Section 6.12. The final SEIS does capture the effects to water supply based on no change to the existing water shortage rule.
FTL 3	<b>Increased risk to water supply.</b> The City remains very concerned about the impact of the lower Regulation Schedule on its water supply. There appears to be no change between the Draft LORSS SEIS and Final LORSS SEIS in this regard.	The preferred alternative regulation schedule did not change between the draft and final SEIS.
FTL 4	<b>Clarify use of additional storage lands.</b> While the City understands that the goal is to first make releases to additional water storage areas to minimize discharges from Lake Okeechobee, the specifics regarding the amount of land and the decision process to utilize those lands, is still unclear in the Final LORSS SEIS. There has been no change on this issue between the Draft and Final LORSS SEIS's.	The Corps' position, and updated coordination documentation, for storage of lake water on public/private lands can be found in Section 4.5.1, and Appendix H. The Corps is strongly supportive of this initiative and continues to work with the SFWMD on ways to proceed with this action.
	<b>TRIBAL</b>	
	Seminole Tribe of Florida (Lewis, Longman and Walker, P.A. representing) 12/17/07	
STOF 1	1. The State and Federal agencies charged with the Lake's management have not yet offered concrete mitigation measures, commensurate with the Water Rights Compact, to ameliorate the LORSS's impact to the STOF in droughts and times of surface water shortage.	The Corps approved a deviation to the Lake Istokpoga regulation schedule on Jan 14, 2008, to provide water to users in the Indian Prairie Water Use Basin. Structural measures are not within this regulation schedule modification.

		SFWMD continues to explore both short and long-term mitigation options as described in Section 6.19 of the final SEIS.
STOF 2	2. Timing of new regulations schedule. In the Draft LORSS SEIS, many questions were raised regarding the length of time this “interim” regulation schedule would be in effect. In the final SEIS, the STOF sees small improvement to the questions, but supports the approach laid out in the final SEIS (albeit still including some level of uncertainty as to when the conditions to implement a new schedule may arise).	Comment acknowledged.
STOF 3	Page v and Page 10: This section discusses the fact that in Fiscal Year 2008, the Corps and SFWMD will look at the overall system operating manual (“SOM”) for the Central & Southern Florida Project. This effort will show if any revisions to the SOM are possible in light of implementation of Comprehensive Everglades Restoration Plan (“CERP”) Band 1 projects as well as possible modifications due to HHD rehabilitation. The STOF feels this will be the first opportunity to revisit the LORSS and supports prioritizing review of the Regulation Schedule in conjunction with this SOM update effort, but uncertainty regarding CERP projects makes this first potential revision to the SOM tenuous at best, for instance, the second west cell of the Everglades Agricultural Area (“EAA”) Reservoir that will provide water storage is still under design, but it is a “Band 1” project.	Comments acknowledged.
STOF 4	<p>Section 3.4: In our previous comments we requested that the operations, protocols and details of make-up water releases be clarified. It does not appear as though any clarification has been made on these operations.</p> <p>Section 3.6: The Draft LORSS SEIS discussed the use of “additional operational flexibility” to account for unanticipated conditions or scenarios outside of the typical LORSS decision tree. The STOF previously requested some clarification on public involvement in these particular decisions. At a minimum, there is still no discussion of how parties will be notified if the Corps is considering instituting “additional operational flexibility” protocols.</p>	<p>Regarding comment for Section 3.4. The use and operational protocols have been defined in the final SEIS and will be further defined in detail in the Water Control Plan. To clarify, make-up release volume will be equal to or less than the volume of water that was reduced or prevented.</p> <p>Reference Section 3.6. Each event to be addressed by additional operational flexibility is unique and releases to be implemented will be defined by a desired outcome or time period. The public will be notified of the planned releases, desired outcome, and implementation time period by the Corps’ normal water management notification process (press release, internet webpage).</p>

STOF 5	<p>Section 4.5: The Corps continues to consider the use of additional water storage lands (estimated at 150,000 to 450,000 acre-feet of storage) as a state action. The STOF does not agree that the use of these lands is strictly a state action due to the fact that they are designed to address problems caused by the Corps' management of the Lake. Our previous comments focused on the fact that the decision process for use of these lands should be clear in the Final LORSS SEIS. This comment has not been addressed.</p> <p>It appears as though the same analysis of benefits of these additional water storage lands is included in the Final SEIS. Clearly there are trade-offs in the use of these lands. The STOF continues to emphasize the fact that the Corps and SFWMD must work together to clearly identify how these lands will be used, when and what the optimal operations of these lands will provide in terms of water storage alternatives.</p>	<p>The Corps' position, and updated coordination documentation, for storage of lake water on public/private lands can be found in Section 4.5.1, and Appendix H. The Corps is strongly supportive of this initiative and continues to work with the SFWMD on ways to proceed with this action.</p>
STOF 6	<p>Page 178: Impacts in the LOSA remain at 4% demands not met for the current Regulation Schedule, Water Supply and Environment ("WSE") and 3% for the TSP. This shows no impact and a slight improvement in performance. In drought years, this impact is 8% for WSE and 6% for the TSP. Relative to Big Cypress, in this Regulation Schedule, the demands not met are 4.6% for the current condition and 7.6% for the TSP, which is the largest impact to the STOF. For Brighton, the Final LORSS SEIS states the impact will decrease from 3.5% to 2.4% demands not met. This appears to be consistent with the Draft LORSS SEIS.</p>	<p>Comments acknowledged.</p>
STOF 7	<p>Page E-41: This trend continues in the LECSA2 in that there are 87 months of cutbacks under the current WSE Regulation Schedule and this impact increases to 88 months of cutbacks under the TSP.</p>	<p>Comments acknowledged.</p>
STOF 8	<p>Page E-43: These trends are even higher when using the existing Supply Side Management ("SSM") line (3-10% percentage of demands not met for LOSA in average years and 6-17% for percentage of demands not met in drought years. For the LECSA2 (affecting the Hollywood Reservation) this increases from 88 to 95 months for increased cutback months. Clearly using the existing SSM line shows a greater impact to water supply, this is why the use of "modified" LOWSM and the statements that performance is closer to these existing rules and conditions is disconcerting. <i>See discussion below regarding Water Shortage Triggers.</i></p>	<p>Comments acknowledged.</p>

STOF 9	<p>Section 6.19: This section describes the status of discussions between the STOF, the Corps and SFWMD to mitigate the impacts to the STOF's ability to obtain surface water supplies at both Brighton and Big Cypress. The Final LORSS SEIS recites the meetings and discussions that have taken place but it is the STOF's position that specific mitigation measures needed to be <u>in place</u> by the time the Final LORSS SEIS was released and the TSP is implemented. This does not appear to be the case. This is clear in that the document states that there was a meeting on this issue in October 2007 and the agencies and the STOF "continue to evaluate" alternative short-term and long-term means of delivering water at low Lake levels. The document also discusses certain solutions such as the potential Aquifer Storage and Recovery ("ASR") well at Brighton and deviations to the Lake Istokpoga Regulation Schedule and forward pumps. There is no level of detail showing that when the Lake hits a certain level, that any one particular mitigation measure will be employed. Funding commitments are also not defined for the infrastructure necessary to deliver water when the Lake's level gets too low for shared diversity in delivery practices. Finally, no mitigation measures were modeled as a part of this effort because there has been no commitment on what all of those mitigation measures are because they "have not been decided upon at this time".</p>	<p>Also refer to response to STOF #1.</p> <p>While structural modifications are beyond the scope of this regulation schedule modification, the Corps has implemented the deviation requested by SFWMD to the Lake Istokpoga regulation schedule to mitigate impacts to water supply. The Corps is also evaluating the possibility of routing water to the Brighton Reservation from the Kissimmee basin and stands ready to work with SFWMD on appropriate modifications to G-207 and G-208. These potential changes are not part of the regulation schedule analysis.</p>
STOF 10	<p>Page 17, Section 4.4 &amp; Appendix G: These sections identify the 3 various efforts to establish a Regulation Schedule based on a water shortage trigger line that has admittedly been a moving target. The SFWMD's efforts to develop a LOWSM Plan that could be used within the context of the LORSS, and still meet 1 in 10 demands for users as well as the Lake Okeechobee Minimum Flow and Level are described in the Final LORSS SEIS. While updated in terms of the Plan that will be used, and providing some more explanation on the evolution of those planning efforts to establish the trigger line, there is still a great amount of uncertainty as to the resulting impact on available water supply to meet environmental and urban demands.</p>	<p>As discussed in Section 4.4.1 in the final SEIS, due to the uncertainty of the SFWMD's rule making during the development of the LORSS SEIS, the Corps conducted modeling analysis to quantify the potential effect on water supply performance if no change to the existing rules was made. The results of this modeling output, used to determine effects to water supply, can be found in Section 6.12. The final SEIS does capture the effects to water supply based on no change to the existing water shortage rule.</p>
STOF 11	<p>The Draft LORSS SEIS utilized a "refined" LOWSM Plan whereas this Final LORSS uses a "modified" LOWSM Plan. This "modification" has provided no more level of certainty for urban or environmental water supply than was outlined in the Draft LORSS SEIS. The concept is that with this "modified" LOWSM Plan, the water supply performance is somewhere in between the existing water shortage triggers and what would happen if the water shortage triggers were initiated .8 of a foot lower. The performance is still in a "bracketed range", as was the case with the Draft LORSS SEIS and is, therefore, uncertain at best.</p>	<p>Refer to response STOF 10</p>

STOF 12	<p>The Final LORSS SEIS in many sections states that the operational details of this “modified” LOWSM Plan are not yet complete (yet will be before the LORSS will be used). Further, the Final LORSS SEIS states that this new “modified” LOWSM Plan will result in performance closer to that experienced with the <u>existing</u> water shortage rules than the performance with the prior version of LOWSM. This is problematic because all of the water supply modeling shows more impact to users, and the environment, under the existing rules than with any version of LOWSM.</p>	<p>The proposed changes to the SFWMD’s Water Shortage Plan were officially adopted on November 15, 2007. In a letter from the SFWMD dated December 17, 2007, the SFWMD stated that the rule changes did not affect the SFWMD’s existing Water Shortage Trigger line. Due to the uncertainty of the SFWMD’s rule making during the development of the LORSS SEIS, the Corps conducted modeling analysis to quantify the potential effect on water supply performance if no change to the existing rules was made. The results of this modeling output, used to determine effects to water supply, can be found in Section 6.12. The final SEIS does capture the effects to water supply based on no change to the existing water shortage rule.</p>
STOF 13	<p>The uncertainty surrounding water supply performance on the low end of the Regulation Schedule was raised by numerous stakeholders in the comments regarding the Draft LORSS SEIS. While the Corps and the SFWMD have made efforts to adopt a water shortage plan and rule that would provide more certainty on the effect of this LORSS, the result is that the same level of uncertainty exists on the performance during low water levels for people and the environment because the actual performance is somewhere within a “bracketed” range.</p>	<p>Reference response above. The Corps bracketed the range due to the uncertainty of the rule making changes.</p>
STOF 14	<p>On page E-44, the document states, “It is anticipated that the SFWMD will provide a summary of performance changes to the 2007 LORSS SEIS recommended plan evaluation based on the final LOWSM plan, compared to the September 2006 draft LOWSM plan previously provided by SFWMD and assumed in place for the 2007 LORSS SEIS alternative evaluation SFWMM simulations.” Unfortunately, this substantiates the fact that there will be no more insight into the actual water supply performance, because Appendix G describes the fact that the operational details and Water Control Plan are still being finalized. As long as any additional changes fall within the range of performance comparing the existing water shortage triggers with dropping the water shortage line by .8 of a foot, then the Final LORSS SEIS purportedly captures those impacts. If those operational details and Water Control Plan result in different performance, the public will not be able to scrutinize those impacts before the LORSS becomes effective. The bottom line is that we can only be certain there will be more risk to water supply but the actual risk is still unknown.</p>	<p>The proposed changes to the SFWMD’s Water Shortage Plan were officially adopted on November 15, 2007. In a letter from the SFWMD dated December 17, 2007, the SFWMD stated that the rule changes did not affect the SFWMD’s existing Water Shortage Trigger line. Due to the uncertainty of the SFWMD’s rule making during the development of the LORSS SEIS, the Corps conducted modeling analysis to quantify the potential effect on water supply performance if no change to the existing rules was made. The results of this modeling output, used to determine effects to water supply, can be found in Section 6.12. The final SEIS does capture</p>



		the effects to water supply based on no change to the existing water shortage rule.
	Miccosukee Tribe of Indians (Lehtinen Vargas & Riedi representing) 12/17/07	
MICC 1	<p><b>A. The Final SEIS Fails to Adequately Analyze the Impact on Tribal Natural Resources</b></p> <p>The Tribe is pleased that the Corps belatedly acknowledged the existence of the Miccosukee Tribe under Section 6.19 on Native Americans. The Tribe, however, disagrees with the characterization that it is “allowed to use” its traditional Everglades homeland. The Tribe contends that the Act of Congress that created the perpetual lease also recognized the Tribe’s longstanding right to continue to use this vast area of the Everglades. The Tribe also disagrees with the statement that the “LORS Preferred Alternative would result in no meaningful stage changes in WCA 3A” and contends that any increase in the weeks of high water will exacerbate the ongoing tree island loss and degradation of Snail Kite critical habitat there. The Tribe also contends that the Final SEIS contains no support for the statement that “there would be no measurable effect from any alternative to the receiving marsh” in WCA 3A, since the Corps failed to conduct any water quality analysis whatsoever. The Corps also failed to adequately analyze the impacts to the Snail Kite habitat in WCA 3A and to tree islands. Finally, as to the Corps’ request for after-the-fact consultation, it has been clear to the Tribe for some time that a meeting on a pre-selected and preordained alternative is not be the type of meaningful, and pre-decisional, consultation that is required.</p>	<p>Much of the discussion in paragraph 1 of Section 6.19 referencing the Miccosukee Tribe, including the statement, “The Tribe is allowed to use this land for the purpose of hunting, fishing, frogging, subsistence of agriculture and to carry on the Miccosukee tradition.” was directly taken from the Tribe’s web page located at:  <a href="http://www.miccosukee.com/tribe_reservations.htm">http://www.miccosukee.com/tribe_reservations.htm</a></p> <p>Regarding impacts to WCA 3, the Corps has disclosed the modeling results and the effects of the preferred alternative as they relate to the greater Everglades, including WCA 3 in Section 6 of the final SEIS. Additionally, the Corps has fulfilled Endangered Species Act, Section 7 consultation with the U.S. Fish and Wildlife Service (USFWS) for the endangered Everglades snail kite as it relates to the LORS. The Biological Opinion (B.O.) was part of the final SEIS, Appendix C. In the B.O., page 15, the USFWS state that they included the downstream WCAs as part of the action area, but determined that the effects on snail kite habitat in those areas are negligible.</p>

MICC 2	<p><b>B. THE WATER QUALITY ANALYSIS IN THE FINAL SEIS IS NON-EXISTENT</b></p> <p>The Final SEIS at Section 6.14 contains <u>no</u> water quality analysis based on a water quality model to support its conclusion that “there are very minor adverse effects from any alternatives to the receiving marsh in the WCAs.” SEIS at 184. The document contains absolutely no analysis of the amount of phosphorous that will be contained in the excess water that will be going to the estuaries and the Everglades as a result of lowering the Lake approximately one foot. A constraint on the volume of water that can go through STA 3/4 does not substitute for an estimate of the phosphorus (concentration or load) that will enter the Everglades under Alternative E. (See, Appendix H at Micc 10). The STAs have been overloaded beyond their design capacity in the past. The Corps has also acknowledged that bypass can occur but has failed to analyze the water quality impacts of such bypass. The Final FEIS should have included an estimate of the phosphorus, and other pollutants, that will enter the Everglades under Alternative E but does not. Nor does the Final SEIS show how Alternative E will impact the Settlement Agreement in Case No. 88-1886-Civ-Moreno in terms of phosphorus concentrations and load. It also still fails to analyze whether it will result in more backpumping into Lake Okeechobee, which was the subject of Judge Altonaga’s Order in Case No. 02-80309-Altonaga/Turnoff. Finally, the Corps’ “responses” to the Tribe’s comments in the Comment Matrix in Appendix H are non-responsive.</p>	<p>This was a comment submitted on the draft SEIS. The Corps previously addressed this comment in the final SEIS, Appendix H, Comment Matrix, comment number Micc 3 and Micc 15.</p>
MICC 3	<p><b>C. THE BIOLOGICAL OPINION IN THE FINAL SEIS IS FAULTY</b></p> <p>The Final SEIS for the first time contains a Biological Opinion (“BO”) by the Fish and Wildlife Service (“FWS”) dated October 15, 2007, which was not subject to public comment in the draft SEIS. The FWS BO is faulty in that, among other things, it fails to adequately analyze the combined impact that IOP and the LORS will have on the endangered Snail Kite and its critical habitat in WCA 3A in the environmental baseline. Neither the FWS CAR, or the Biological Opinion, adequately analyze the impacts of Alternative E on WCA 3A. Instead, the focus of the BO is primarily on “drought” and ignores the impacts that the high water levels, and dry downs, of the IOP regulation schedule have had on the Snail Kite critical Habitat in WCA 3A. The FWS BO</p>	<p>This was a comment submitted on the draft SEIS. The comment was previously addressed in final SEIS, Appendix H, Comment Matrix, comment number Micc 5.</p>
MICC 4	<p><b>1. The Final SEIS Rubber Stamps the Preferred Alternative E.</b></p> <p>The Preferred Alternative E is a recommendation to a federal agency that was screened and developed in closed door meetings of an advisory group that did not comply with FACA. A review of the Final SEIS shows that the group did not notice its meetings in the federal register and relied on information, including modeling results, that are not in the document itself. In short, the Final SEIS contains a preordained decision that was made in a process that was not conducted in public and which the Corps will simply rubber stamp. The selection of Alternative E by an advisory committee, which did not hold public meetings, does not comply with FACA.</p>	<p>This was a comment submitted on the draft SEIS. The comment was previously addressed in the final SEIS, Appendix H, Comment Matrix, comment number Micc 7 and Micc 8.</p>



MICC 5	<p><b>2. The No Action Alternative in the Revised Draft SEIS Is Improper.</b></p> <p>The Final SEIS continues to use an incorrect No Action Alternative. The WSE should have been the No Action Alternative against which impacts are assessed. NEPA requires that the No Action Alternative be the last Water Control Plan and regulation schedule for Lake Okeechobee that has gone through the reviews required by law.</p>	<p>This was a comment you submitted on the draft SEIS. The comment was previously addressed in the final SEIS, Appendix H, Comment Matrix, comment number Micc 9.</p>
MICC 6	<p><b>3. The Cumulative Impact Analysis in the Final SEIS is Woefully Inadequate.</b></p> <p>The cumulative impact section in the Final SEIS at Section 6.21 is grossly inadequate in that, among other things, it fails to analyze the combined impact of the past nine years of water management operations for the Sparrow (including under IOP) have had on WCA 3A when coupled with Alternative E. The Corps continues to claim that Alternative E would have no impact on IOP and “the effects of IOP would have no cumulative relationship to the effects of the proposed action.” Appendix H at Micc 10. First, it is ludicrous to claim that the regulations schedules have no cumulative impact. Second, NEPA requires the Corps to analyze the impacts of both on WCA 3A in a cumulative impact analysis. Merely mentioning that IOP is being implemented, is not an analysis. The Corps has failed to conduct the cumulative impacts analysis required under NEPA.</p>	<p>This was a comment submitted on the draft SEIS. The comment was previously addressed in the final SEIS, Appendix H, Comment Matrix, comment number Micc 10.</p>
MICC 7	<p><b>4. The Final SEIS Contains No Health and Safety Analysis of High Water in WCA 3A.</b></p> <p>The Final SEIS is silent on the public health and safety aspects that having no cap on how high the water can get in WCA 3A poses for the Tribe. It also still fails to address the issue of whether the resulting reduction in storage in the WCAs caused by the IOP exacerbates the impacts that hurricanes and storms have had, and will continue to have, on the environment and urban and agricultural interests. The Corps’ non-responsive answer in the Comment Matrix in Appendix H is no substitute for an analysis of the health and safety impacts to the Tribe of having no cap on how high the water can get in WCA 3A. Merely stating, “there would be no meaningful stage increase in WCA 3A from LORS, and that Alternative E “is not expected to increase water levels in WCA 3A” is inadequate when the Corps has played a modeling shell game and failed to analyze the cumulative impacts of IOP and LORS. (See, Appendix H at Micc 11.) It is disconcerting that the Corps continues to refuse to address health and safety issues that could adversely impact the Tribe.</p>	<p>This was a comment submitted on the draft SEIS. The comment was previously addressed in the final SEIS, Appendix H, Comment Matrix, comment number Micc 11.</p>

<p>MICC 8</p>	<p><b>5. The Modeling “Shell Game” Still Shows Impacts on WCA 3A.</b></p> <p>Perhaps nowhere is the contradictory and confusing nature of the LORS EIS process exemplified as much as in the modeling of alternatives. The Corps claims in response to the Tribe’s comments, that due to the change in modeling, previous results for the LORS and IOP can not be compared to current results. (See, Appendix H at Micc 12.) It also claims that Indicator Regions 14 and 19, which were region as used for CERP modeling and for assessing whether the Incidental Take Statement for IOP had been met, are no longer ecological indicators. The Final SEIS contains no model comparisons between IOP, the TSP, Alternative E, and NSM. Instead, the public is apparently asked to take the Corps’ assertions of “no meaningful difference,” and no significant increase” in WCA 3A, on faith. NEPA does not require mere faith. It requires an EIS to be a full disclosure document, which is not the case here. From the beginning, the LORS modeling has been a shell game for which the public has no way of comparing results. Even under this shell game, it appears that the high water conditions in WCA 3A will be exacerbated (along with the impacts on tree islands and the endangered Snail Kite’s critical habitat), and that number of weeks of peat dryout will be increased as well. The question when faced with such arbitrary and capricious conduct, and results, is what the impacts on WCA 3A and the rest of the ecosystem will be. This was something that the Final SEIS should have divulged but did not.</p>	<p>This was a comment submitted on the draft SEIS. The comment was previously addressed in the final SEIS, Appendix H, Comment Matrix, comment number Micc 12.</p>
<p>MICC 9</p>	<p><b>6. Final SEIS Fails to Adequately Assess Impact on Snail Kite and Critical Habitat.</b></p> <p>In response to the Tribe’s previous comments, the Corps finally addressed the alarming decline in the Snail Kite population that has occurred. However, the Corps continues to ignore the alarming decline in the Snail Kite critical habitat in WCA 3A that its IOP water regulation schedule caused in WCA 3A. The Corps also continues to make the inaccurate statement that the decline in the Snail Kite was based only on a regional drought while ignoring the impact that the IOP regulation schedule had both on nesting conditions and the habitat in WCA 3A. A review of the Snail Kite reports submitted by the Tribe with its previous comments, and ignored by the Corps, shows that the IOP regulation schedule has also adversely impacted the Kite. The Final SEIS still does not contain the analysis on the Snail Kite critical habitat in WCA 3A, which is required under NEPA and the ESA. It still fails to contain a cumulative impacts analysis of the impacts that nine years of water management actions for the Sparrow, coupled with Alternative E, will have on the Snail Kite and its designated critical habitat. Nor is there analysis of whether Alternative E will cause the FWS Incidental Take Statement (“ITS”) under IOP not to be met.</p>	<p>This was a comment submitted on the draft SEIS. The comment was previously addressed in the final SEIS, Appendix H, Comment Matrix, comment number Micc 13.</p>

MICC 10	<p><b>7. The Final SEIS Fails to Take the “Hard Look” Required by NEPA.</b></p> <p>The disparity between the modeling results and the language in the Final SEIS about “no meaningful stage increase” and no “measurable effects” to the WCAs and “negligible” effects on the Snail Kite is evidence that the requisite “hard look” required by NEPA has not been taken. This same failure to take a “hard look” at harm also applies to the St. Lucie and Caloosahatchee River estuaries.</p>	Comment acknowledged.
MICC 11	<p><b>8. The Final SEIS Does Not Meaningfully Analyze Flooding Impacts.</b></p> <p>The Final SEIS still fails to analyze the flooding impacts on other areas that could occur from Alternative E, which will cause more water to be released for longer periods of time to certain areas. Neither Sections 4.3, 5.7 or 6.13 o adequately analyze these impacts. Although the Flood Protection Section 6.13 focuses only on Lake Okeechobee, it claims (without any analysis) that “modeling results showed that the Preferred Alternative would not increase the risk of flooding in other parts of the C&amp;SF system. The Tribe has already pointed out the questionable nature of the “shell game” modeling used by the Corps and contends that these results should have been analyzed in the Final SEIS. The Corps’ failure to adequately analyze the flooding of the Tribal Everglades, and impacts to health and safety, are addressed in other sections of these comments.</p>	This was a comment submitted on the draft SEIS. The comment was previously addressed in the final SEIS, Appendix H, Comment Matrix, comment number Micc 14.
MICC 12	<p><b>9. The Final SEIS Does Not Fully Divulge, and Assess, the Impact on Water Supply and the Environment of the Increase in Water Shortages.</b></p> <p>Alternative E will allow water in Lake Okeechobee to be maintained one foot lower than the level for WSE modeled over the 36 year period of record. The Final SEIS continues to show that Alternative E could greatly increase the possibility of a water shortage. The Corps analysis of such water shortages continue to be highly uncertain and inconclusive.</p>	Due to the uncertainty of the SFWMD’s rule making during the development of the LORSS SEIS, the Corps conducted modeling analysis to determine the potential effect on water supply performance if no change to the existing rules was made. The results of this modeling output, used to determine effects to water supply, can be found in Section 6.12. The final SEIS does capture the effects to water supply based on no change to the existing water shortage rule.
MICC 13	<p>The Final SEIS continues to fail to analyze reasonable alternatives that would protect the health and safety of the people living around the Hoover Dike with far less impact on the rest of the Everglades, the Tribe, and the endangered Snail Kite. The only alternatives analyzed in the Revised Draft SEIS continue to be variations of WSE. This is totally inadequate under NEPA. The Corps statement that reasonable alternatives are those that are technically implementable, and achieve the Corps’ study purpose, ignores that those suggested by the Tribe are. See, Appendix H at Micc 15.</p>	This was a comment submitted on the draft SEIS. The comment was previously addressed in the final SEIS, Appendix H, Comment Matrix, comment number Micc 16.

MICC 14	The Final SEIS does not compare the cost of the evacuation alternative with the cost (environmental and otherwise) of the other alternatives. This cost information should be provided under the <i>full</i> disclosure and cost benefit analysis requirements of NEPA.	This was a comment submitted on the draft SEIS. The comment was previously addressed in the final SEIS, Appendix H, Comment Matrix, comment number Micc 17.
MICC 15	Section 6.22 of the Final SEIS continues to incorrectly conclude that there will be no irreversible and irretrievable commitment of resources. Any increase in the number of weeks of high water conditions in WCA 3A caused by the Alternative E would exacerbate the destruction of tree islands and such damage would be irreversible and irretrievable. Any increase in high water levels would also cause a further decline of the Tribal Everglades in WCA 3A, as well as incalculable harm to the culture and way of life to the Miccosukee Tribe.	This was a comment submitted on the draft SEIS. The comment was previously addressed in the final SEIS, Appendix H, Comment Matrix, comment number Micc 18.
MICC 16	The Final SEIS in Section 6.14 fails to adequately analyze the impact that Alternative E would have on water quality both in WCA 3A and other areas of the Everglades and Everglades National Park, including whether these releases would comply with the Settlement Agreement requirements in the Everglades case before Judge Moreno.	Alternative E does not propose flows that would cause violations of the Consent decree. In fact, Section 6.14 recognizes that flows will be based upon STA treatment capacity.
	Despite evidence that a managed recession would significantly increase the number of weeks of sustained high water in the Everglades, the Final SEIS still fails to adequately assess impacts on tree islands and water quality.	This was a comment submitted on the draft SEIS. The comment was previously addressed in the final SEIS, Appendix H, Comment Matrix, comment number Micc 19.
MICC 17	<p><b>15. The Final SEIS is Non-Responsive to the Tribe's Comments.</b></p> <p>NEPA requires the Corps to respond to comments. In the Comment Matrix in Appendix H of the Final SEIS, the Corps feigned a response to only a few of the Tribe's comments. A review of the Corps' "responses" shows that they are not only perfunctory but in some cases non-responsive. See, Appendix H at Micc 1-20. The Tribe has responded to some of these statement under the respective sections in this document. The use of subjective phrases such as "<u>no meaningful</u>" stage increase in WCA 3A; "<u>not expected</u> to increase water levels;" and a "<u>negligible effect</u>" on Snail Kites and their habitat are not supported by the required NEPA analysis of cumulative impacts of the LORS with IOP. The statement " would not effect to <u>any measurable degree</u>" loads outgoing from the Lake is not supported by any water quality analysis or water quality modeling. Moreover, most of the Corps' statements are based on modeling that does not contain important aspects (i.e. STA bypass), and that continuously changed throughout the EIS process without allowing any comparison with previous results. These are just a few examples of the non-responsive and perfunctory nature of the Corps' so-called response to the Miccosukee Tribe of Indians' comments on the Final SEIS.</p>	The Corps does not concur with your statement that the final SEIS is non-responsive to the Tribe's comments. Federal, state and local governments, Native American Tribes, stakeholders and the general public have had many opportunities to provide input into the LORSS as documented in the final SEIS Section 8, Public Involvement. The Corps has taken into consideration the Tribe's comments from the beginning of the study, and has requested government to government consultation with the Tribe as documented in Section 6.19 and Appendix H (pertinent correspondence record) of the final SEIS.

<p>MICC 18</p>	<p><b>E. THE CORPS MUST COMPLY WITH THE APA AND ITS REGULATIONS</b></p> <p>Any change to the Lake Okeechobee Regulation Schedule constitutes an amendment to the rules and regulations for Central and Southern Florida Project (C&amp;SF) for operating the project. This amendment of rules and regulations requires that the Corps comply with the required rulemaking procedures, including notice and the opportunity to be heard, pursuant to APA. The Revised Final SEIS does not state that the Corps plans to comply with the rulemaking requirements of the APA. The Tribe also remains concerned that so-called “operational flexibility” will be used to change the regulation schedule without following Corps’ regulations for a deviation from the regulation schedule, which also requires NEPA compliance.</p>	<p>The proposed schedule modifications will be implemented consistent with Corps regulations for changes to water control plans. The Corps NEPA process also met requirements for public input pursuant to Engineer Regulation 1110-2-240.</p> <p>The Corps will comply with NEPA for any deviations or as appropriate for implementation of operational flexibility.</p>
<p>MICC 19</p>	<p>The Final SEIS, and the FWS Biological Opinion contained in it, fail to comply with the Endangered Species Act (“ESA”), because they do not adequately analyze the cumulative impacts of IOP and Alternative E in the environmental baseline, or the cumulative effects of future actions, on the Snail Kite and other endangered species. As stated previously, the Final FEIS fails to protect the Snail Kite and its critical habitat, because it failed to adequately analyze the cumulative impacts that past water management actions (including ISOP and IOP), coupled with Alternative E, will have on the Snail Kite and its critical habitat in WCA 3A. Section 6.3.1 in the Final SEIS on the Snail Kite fails to even mention that the Kite has designated critical habitat in WCA 3A. Final SEIS at 143-144. As stated earlier, the Draft SEIS on IOP shows it has caused alarmingly high water levels in WCA 3A that has resulted in a 50% decline in the endangered Snail Kite population and degraded and modified its there. <i>See</i>, August 2007 Comments at Exhibit A at p. 69 and Attachment C at p. 19. The Corps is required to construct the analysis on cumulative effect, and cumulative impacts, required under both NEPA and the ESA to ensure that the Snail Kite will not be jeopardized, or its critical habitat adversely modified, by the LORS.</p>	<p>The Corps has fulfilled Endangered Species Act, Section 7 consultation with the U.S. Fish and Wildlife Service (USFWS) for the endangered Everglades snail kite as it relates to the LORS. The Biological Opinion (B.O.) was part of the final SEIS, Appendix C. In the B.O., page 15, the USFWS state that they included the downstream WCAs as part of the action area, but determined that the effects on snail kite habitat in those areas are negligible.</p>

MICC 20	<p><b>G. THE CORPS FAILED TO COMPLY WITH THE INDIAN TRUST DOCTRINE</b></p> <p>The Corps has a Trust duty to see that Alternative E does not escalate the destruction of Tribal lands in WCA 3A that are vital to the culture and way of life of the Tribe, and which the Corps has a solemn responsibility to protect. Yet, the Corps failed to analyze other reasonable and prudent alternatives that would protect Lake Okeechobee, and the people living around it, that do not increase the environmental harm, and the public health and safety risk, to the Miccosukee Tribe. The Tribe did not even consider the Tribe's request to consider reasonable alternatives, such as evacuation, reevaluation of closing of the S-12s under IOP, and the expeditious implementation of the Modified Water Deliveries Project. Opening the S-12s and allowing water to move through the Everglades would alleviate high water conditions in WCA 3A and the Lake, and lessen the damaging to discharges to the estuaries. The expeditious implementation of the Modified Water Deliveries Project would be beneficial to all parts of the ecosystem and all species. The Corps had a duty to conduct meaningful, pre-decisional consultation with the Tribe and not the after-the-fact consultation that it discusses in the Final SEIS. The Corps also had a duty under its Trust responsibility to examine such "reasonable alternatives," and to take actions that would mitigate any damage to Tribal lands, but failed to do so.</p>	<p>The Corps does not concur with your statement that reasonable and prudent alternatives were not analyzed in the LORSS. The Corps went to extraordinary lengths to develop alternatives that would benefit the environment, provide for public health and safety, while meeting other congressionally authorized project purposes. The Corps evaluated implementable alternatives for the LORS study. The Corps does not agree with the Tribe's request to consider alternatives such as evacuation, reevaluation of closing the S-12s under IOP, and Modified Water Deliveries, in the LORSS. IOP and Modified Water Deliveries are projects with their own set of alternative plans. The final SEIS analysis does not indicate adverse effects to Miccosukee Tribal lands. Therefore, mitigation for adverse effects were not considered in the LORSS. Regarding consultation with the Tribe, the Corps' consultation documentation record can be found in Section 6.19 and Appendix H, pertinent correspondence. Also refer back to response for MICC 17.</p>
	<b>AGRICULTURAL</b>	
	Sugar Cane Growers Coop of Florida (12/11/07)	
Coop 1	<p>For the record, most of our previous comments still pertain to this version of the lake regulation schedule as described in the EIS. We understand the Corps' position of protecting the integrity of the Herbert Hoover Dike (HHD); however, we believe the Corps has the authority to make emergency releases or deviations under the current WSE regulation schedule that achieve this goal. Therefore, protecting the integrity of the levee can be achieved without the adoption of this lake operation schedule.</p>	<p>Under the current regulation schedule, Lake Okeechobee has experienced extended periods of high lake levels due to heavy rainfall and numerous hurricanes. During this time, water managers were faced with regulation schedule constraints that provided minimal flexibility to respond to real time high lake levels, given limited discharge capacity and downstream constraints for the existing outlet structures.</p>

		Regulation schedule deviations were implemented during this time, but lake elevation still reached a high of 18.02 ft. NGVD on October 13, 2004. At this level, HHD integrity problems such as seepage, piping, and boils are exacerbated. Evaluation of the LORSS preferred alternative over the POR (1965 to 2000) shows that the proposed regulation schedule will reduce the likelihood of lake levels above 18.00 ft. NGVD.
Coop 2	The EIS assumes that the South Florida Water Management District's (District) water shortage plan is captured in the bracketing of water supply impacts. Now that the water shortage rule has been officially modified it is clear that there will be significant water shortage impacts caused by this new schedule. The EIS has made no attempt to evaluate these negative consequences. The EIS also assumes the District will acquire private land to store water to reduce high flow estuary releases. This concept is speculative at this point and should not be included in the analysis in a way that indicates there will be significant benefits from this idea.	The proposed changes to the SFWMD's Water Shortage Plan were officially adopted on November 15, 2007. In a letter from the SFWMD dated December 17, 2007, the SFWMD stated that the rule changes did not affect the SFWMD's existing Water Shortage Trigger line. Due to the uncertainty of the SFWMD's rule making during the development of the LORSS SEIS, the Corps conducted modeling analysis to quantify the potential effect on water supply performance if no change to the existing rules was made. The results of this modeling output, used to determine effects to water supply, can be found in Section 6.12. The final SEIS does capture the effects to water supply based on no change to the existing water shortage rule. The Corps bracketed the range due to the uncertainty of the rule making changes.
Coop 3	We strongly object to the assertion of the Corps' authority to undertake a managed recession within the new proposed authority in the lake schedule. This was not in the August 2007 draft SEIS and a managed recession should be considered a non-typical operation that requires additional authority to implement.	As explained in Section 4.5.3 of the final SEIS, if the need for a managed recession occurs analysis similar to the completed in Appendix F would be completed. The managed recession discussion was not new in the final SEIS. The discussion can also be found in Section 3.2.2 and Appendix F of the August 2006 draft SEIS, as well as Section 4.5.2 and Appendix F of the revised draft SEIS dated July 2007.
	ALICO, INC. (12/13/07)	

Alico 1	The Corps response was to bracket the water supply impacts based upon the South Florida Water Management District's water shortage plan. However, there has been no evaluation to determine if water can actually be supplied to the rural communities should the Lake drop to the levels within the brackets. Further, the number of water shortages will increase in number and duration. The EIS should not be adopted until these impacts are evaluated. Attempts to gloss over this issue by referencing storage in the Upper Basin are not realistic concepts that we know will be in place to offset the impacts. We are all aware of the stress placed on the state funding source for such potential land acquisitions.	As defined by the study scope, the recommended plan (and all alternatives evaluated) does not include changes to the existing physical infrastructure of canals, levees, pumps, or water control structures. Water supply performance documented in the SEIS, including the performance of the recommended plan with either the existing water shortage management plan or the SFWMD proposed LOWSM, is based on the current infrastructure for water supply deliveries.
Alico 2	Until the real impacts on water supply for those dependent upon the lake, the farmers, the public water supply demands, the downstream environment and the lake itself are evaluated, the rush to adopt this schedule in the middle of a severe drought is not warranted. Further, we do not see our requests to increase the stage of Lake Okeechobee once the repairs are made. With the complications of the Corps process, the public is best served by including this information now, when we have time to debate the merits, due to the critically low lake stages. We believe that the present schedule should authorize increasing storage capacity of the lake at the earliest possible time such as when the completion of HHD seepage berm construction or equivalent dike repairs for reaches 1, 2 and 3 are completed as stated in the Abstract of the EIS. Finally, we object to any "managed recession" in addition to the lower lake schedule in addition to this schedule, until the Project purpose for water supply has been fully met.	Due to the uncertainty of the SFWMD's rule making during the development of the LORSS SEIS, the Corps conducted modeling analysis to quantify the potential effect on water supply performance if no change to the existing rules was made. The results of this modeling output, used to determine effects to water supply, can be found in Section 6.12. The final SEIS does capture the effects to water supply based on no change to the existing water shortage rule. The Corps bracketed the range due to the uncertainty of the rule making changes.
OTHER		
PURRE (People United to Restore our Rivers and Estuaries) Water Coalition (Received 12/17/07)		
PUR 1	The Final SEIS continues to use the Stormwater Treatment Area ("STA") 3/4 capacity limitation as a hard constraint, which necessarily means that Lake water cannot be sent to the Water Conservation Areas ("WCAs") in any significant amount, especially during the wet season. We continue to believe that the STA-3/4 constraint is a double standard that places the interests of the WCAs over the interests of the Caloosahatchee Estuary and its surrounding communities. The Corps has yet to explain why it is willing to adopt a hard constraint based on water quality for the WCAs but not for the Caloosahatchee Estuary. In the Comment Matrix, the Corps simply reiterates that the regulation schedule attempts to balance competing objectives, but this "balancing" is pre-weighted from the start.	The constraint you are referencing is only a modeling constraint. The schedule does not place a definitive operational constraint on STA ¾. The schedule will provide flows as treatment capacity allows. The schedule will be consistent with the requirements of the Consent Decree. Addressing Lake Okeechobee water quality is beyond the scope of the LORSS.



PUR 2	<p>Every alternative considered in the Final SEIS will result in significant discharges of polluted Lake water into the Caloosahatchee River and Estuary, including the Preferred Alternative. In the Comment Matrix, the Corps responds to this concern by reiterating its position that the regulation schedule attempts to address competing interests and that the purpose, goals and objectives support the alternative selection. But one of the goals of the project is to “improve[e] the health of Lake Okeechobee and the St. Lucie and <u>Caloosahatchee</u> estuaries . . .” Final SEIS at p. 8 (emphasis added). In light of this goal, and the significant detrimental impact that releases from Lake Okeechobee have had on the Caloosahatchee River and Estuary in the past, we continue to believe that at least one of the alternatives assessed should be one that will result in significant benefits for the Caloosahatchee River and Estuary.</p>	<p>With the current infrastructure in place, it is not feasible to develop alternatives that would only benefit one project purpose. The Corps must evaluate “implementable” alternatives. Lake Okeechobee is a multi-purpose project, and alternatives were developed in the interest of balancing project purposes for flood control, water supply, navigation, enhancement of fish and wildlife resources, and recreation. The recommended plan attempts to balance these project purposes, but public health and safety, related to concerns with Herbert Hoover Dike structural integrity, were a dominant factor in the plan formulation of alternatives.</p>
PUR 3	<p>We still disagree with the Corps’ decision to analyze the now-constructed temporary forward pumps in a separate NEPA process from the proposed regulation schedule. We continue to believe that <i>prior to</i> installation of the temporary forward pumps and adoption of a new regulation schedule, the cumulative impacts of the two actions should have been analyzed together in one NEPA process. The inclusion in the Final SEIS of some additional facts regarding the status of the forward pumps cannot act as a substitute for analysis of the cumulative impacts of the two actions.</p>	<p>The Corps acknowledges your comment. However, the temporary forward pumps were permitted and installed in early 2007, well before the LORS draft SEIS was finalized. The Corps’ Regulatory Office completed the NEPA document on the pumps at the time of permitting.</p>
PUR 4	<p>The Corps fails to acknowledge the severity of water quality impacts from Lake discharges into the Caloosahatchee River and Estuary, even though these impacts have been well documented and include negative effects on salinity levels, light attenuation for submerged aquatic vegetation, and growth of harmful algal blooms.</p> <p>The Corps dismissed our concerns about water quality impacts in the Caloosahatchee River and Estuary by conclusorily stating, without analyzing such impacts in the Final SEIS, that “[i]mplementation of any alternative analyzed would have negligible effects to water quality.” We believe this is inconsistent with the primary purpose of the SEIS – to identify and analyze all impacts – direct, indirect, and cumulative. This necessarily includes impacts on the Caloosahatchee River and Estuary.</p> <p>In particular, the SEIS fails to identify the long-term, cumulative impacts of the Corps’ discharges to the Caloosahatchee Estuary, which have resulted in the long-term degradation of</p>	<p>The Corps does not concur with your statement of failing to acknowledge and dismiss concerns about water quality impacts in the Caloosahatchee River and Estuary. The Corps recognizes your concerns, and believes your comments were previously addressed by expanding the discussion in the final SEIS Sections 5.9 and 6.14, and in the comment matrix response PURRE 6. The upcoming System Operating Manual Study will consider CERP projects and greater storage capacity within the system when revisiting the LORS, offering the opportunity to address water quality issues.</p>

	<p>the aquatic resources. Nowhere does the SEIS analyze how the Corps' previous actions have harmed the Estuary, or the cumulative effects the proposed new regulation schedule will have on the same aquatic resources.</p> <p>The Final SEIS assumes that any release schedule will necessarily harm the Caloosahatchee Estuary instead of actually analyzing the impacts of the releases on the Estuary. The Corps' apparent resistance to conducting such an analysis is hard to understand because it is well-known, and accepted in the scientific community, that most problems in the Estuary are linked to these water quality issues.</p>	
PUR 5	<p>Like the previous drafts, the Final SEIS fails to analyze how the different alternatives affect water quality in the Caloosahatchee River and Estuary. More specifically, the Final SEIS still fails to assess how the different alternatives will affect salinity, color/turbidity, and nutrient levels in the waters receiving Lake discharges. The Final SEIS fails to explain why it does not include a comparative analysis, something we requested in our comments on the previous draft.</p> <p>This means that decision makers in the Corps will be uninformed about one of the most important environmental consequences of their decision, <i>i.e.</i>, the differential effects of each alternative on Caloosahatchee Estuary water quality.</p>	<p>The Corps does not concur with your statement of failing to analyze water quality in the Caloosahatchee River and Estuary. As explained in Section 6.14 of the final SEIS, the LORS is operational in nature, and negligible improvements to water quality can be achieved by operational changes only. No new infrastructure were evaluated in the LORSS that would assist in water quality improvements. Refer to response PUR 4. Additionally, the Corps disagrees with your statement that the final SEIS fails to assess how the different alternatives will affect salinity, color/turbidity, and nutrient levels. A Restoration Coordination and Verification (RECOVER) performance measure was used to gauge estuary performance against all the alternatives. Since maintaining an optimal salinity regime in the estuary is an important factor, the performance measures used were based on freshwater discharges from the Caloosahatchee River at the S-79 structure. The Corps also gathered existing data from Doering and Chamberlain (1998) and the SFWMD to prepare the existing conditions water quality section 5.9 of the final SEIS which discusses nutrient levels, color and turbidity.</p>

	<p>There is still virtually no discussion in the Final SEIS of what different alternatives will affect water quality issues such as harmful algal blooms, including blue-green algae, red tide, and red drift algae. We believe inclusion of such analysis is critical.</p> <p>The Final SEIS is dismissive of any link between high nutrient levels in Lake releases and the occurrence of red tide and other harmful algal blooms in the Caloosahatchee Estuary. The SEIS makes the point that in the summer of 2006, blue green algal bloom activity was observed in the Estuary when virtually no water flowed from Lake Okeechobee to the Caloosahatchee River. Use of a single data point is not scientific evidence sufficient to disprove a link between Lake discharges and harmful algal blooms. This also puts on blinders to the cumulative effects of nutrient loading caused by Lake releases. Furthermore, even if no single controllable cause for these blooms has been identified, high nutrient inputs are likely a contributing factor, and the Corps should attempt to lessen the influence of high flow volumes into the Caloosahatchee River and Estuary.</p>	<p>Reference section 5.2 in the final SEIS for the discussion on Harmful Algal Blooms. A substantial amount of information and research has been accumulated through the years on red tide and algal blooms. As explained in Section 5.2, not one single factor can be targeted for causing such events.</p> <p>Reference your statement, “the Corps should attempt to lessen high flow volumes”. The selected alternative, Alternative E, decreased the mean monthly high flows by 10 months compared to the No Action Alternative in the modeling comparison. The Corps’ alternative selection does attempt to lessen the high-volume releases. In addition, modeling results indicate that Alternative E has a significantly greater number of months in the acceptable flow range (Section 6.2.2). Another positive addition to Alternative E is the inclusion of base flow, which is beneficial to the Caloosahatchee Estuary. The ability to provide base flow (low volume releases) would confer environmental benefits to the estuary by providing flow to assist in maintaining the appropriate salinity range. The recommended plan is the alternative that strikes the most acceptable balance in providing environmental benefits and meeting overall project objectives.</p>
PUR 6	<p>We were disappointed to see that the Final SEIS still contains no discussion of whether the Caloosahatchee River and Estuary, and associated waters, are currently meeting Florida water quality standards. The Final SEIS fails to acknowledge the water quality impacts from Lake discharges into the Caloosahatchee River and Estuary, even though these impacts have been well documented.</p>	<p>In the final SEIS, the Corps extended the discussion of water quality in the Caloosahatchee River and Estuary. Documentation from many sources, including Doering and Chamberlain (1998 and 1999a), EPA, and FDEP, was gathered for preparation of the discussion of water quality in Sections 5.9 and 6.14 in the final SEIS.</p>

PUR 7	<p>We raised serious concerns regarding drinking water issues in our previous comments. We were therefore disappointed to see that the Final SEIS dismisses these concerns with a single sentence that declares, without any analysis, that none of the alternatives would adversely impact drinking water. We remain seriously concerned about this issue.</p>	<p>As stated in Section 6.20 of the final SEIS, Lake Okeechobee provides a source of drinking water to cities around the lake. Additionally, the Corps recognizes that the C-43 (Caloosahatchee River) provides a source of potable water for Lee County. Based on your previous comments to the draft SEIS, your concerns seem to focus on the potable water for Lee County. As detailed in the Water Control Plan for Lake Okeechobee, the SFWMD may request, or the Corps may initiate releases from Lake Okeechobee to the Caloosahatchee River to reduce the salinity at the Lee County Olga water supply treatment plant intake located about 1 mile upstream of the S-79 structure. Releases may also be made to break up algal blooms in the river which may benefit the Olga plant intake.</p>
PUR 8	<p>None of our previous comments regarding the deficiencies of the endangered species impacts discussion have been substantively addressed in the Final SEIS. The discussion still focuses almost exclusively on endangered species issues in Lake Okeechobee, as opposed to the Caloosahatchee River and Estuary and other areas that are undeniably impacted by Lake releases. And, despite our very detailed comments documenting our concerns regarding this issue, there is still virtually no discussion of how the different alternatives might affect listed species and marine mammals in the Caloosahatchee River and Estuary, in particular the West Indian manatee, the Florida smalltooth sawfish, and various species of sea turtles.</p>	<p>The ESA requires that the Corps consult with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to assure that impacts on threatened and endangered species or critical habitat are fully considered. The process is referred to as “Section 7”. As with all projects, including LORS, the Corps requested FWS and NMFS to provide a list of potentially impacted species. The Corps then prepared a Biological Assessment of the project’s likely impact on T&amp;E species. In the case for LORS, only species under the jurisdiction of the FWS resulted in a “may adversely affect” determination. Therefore, the FWS responded in a Biological Opinion for the Everglades snail kite. The Biological Opinion concluded ESA consultation with FWS. Consultation with NMFS did not result in a Biological Opinion, but the Corps has completed all requirements, and is compliance with Section 7 of the ESA (See NMFS letter dated Sep.11, 2007 located in Appendix H,</p>

		ESA Coordination Section). All coordination efforts with both agencies can be found in Appendix H of the final SEIS. Additionally, a summary of ESA coordination and compliance can be found in the final SEIS Section 6.26.2. The Biological Opinion is located as Appendix C, which discusses effects to the manatee. The FWS conclude that the action may affect, but is not likely to adversely affect the manatee or its critical habitat (refer to page 4 and 5 of the Biological Opinion located in Appendix C of the final SEIS)
PUR 9	The Final SEIS mentions the presence of the five National Wildlife Refuges that depend upon the Caloosahatchee River for water, but fails to mention that these important national resources are showing signs of impaired ecosystems as a result of the polluted waters released from Lake Okeechobee into the Caloosahatchee River. The Final SEIS also fails to analyze how the different alternatives may impact these Refuges, responding in the Comment Matrix, without including any supporting analysis, that every alternative analyzed would have negligible effects on the refuges due to the same quantity and quality of water that would be delivered downstream.	The Corps previously addressed this comment in the final SEIS, Appendix H, Comment Matrix, response PURRE 11.
PUR 10	As we stated in our previous comments, we believe it is critical that the SEIS analyze the cumulative effect of the releases from Lake Okeechobee on the Caloosahatchee Estuary because additional heavy discharges may be the “tipping point” that causes irreversible damage to the Caloosahatchee Estuary. Moreover, the cumulative effects analysis is forward-looking only, describing planned projects and studies that <i>may</i> improve water delivery. The discussion of planned projects does not explain what effects these projects will have on such performance measures as water quality and storage capacity. Nor does the analysis consider the effects of the high volume water releases of the past that have caused significant damage to the Caloosahatchee River and Estuary. The cumulative effects analysis must look at the effects of past actions, not just describe projects that have not yet been implemented.	The final SEIS, Section 6, environmental effects, does discuss the No Action alternative which is the baseline for comparison for all alternatives analyzed. In this analysis, the effects of high volume releases to the estuaries were considered (refer to Sections 6.2.2 and 6.4.2).  Section 6.21, cumulative effects, discusses the numerous actions/projects that would provide improvements in water deliveries to the coastal estuaries.

PUR 11	<p>We continue to believe that the alternatives analysis is deficient because it fails to include any analysis of the effects of the proposed alternatives on the socio-economic environment. The purpose of Section 6 of the Final SEIS is to report on the effects of the alternatives, not to merely describe existing conditions. In particular, the damage to the Caloosahatchee Estuary caused by the polluted Lake releases has resulted in significant long-term harm to our local communities. This damage should be addressed and analyzed. We are disappointed that the Final SEIS attempts to avoid such analysis by stating that the affects to the environment “cannot directly be translated into quantifiable economic impacts without a certain degree of conjecture and speculation.” Given that the SEIS projects certain environmental impacts in the face of similar uncertainty, we do not know why the Corps will not make similar socio-economic projections.</p>	<p>The Corps acknowledges your comment, and has previously addressed this comment in the final SEIS, Appendix H, comment matrix, comment PURRE 4. Section 6 of the final SEIS only summarizes the full economics report. Refer to Appendix D for the full report.</p>
PUR 12	<p>NEPA regulations require federal agencies to consolidate discussion of other statutory compliance issues in an EIS. As we described in detail in our comments on previous drafts, the SEIS fails to adequately analyze compliance with the Endangered Species Act, the Clean Water Act, and state permitting requirements, in most instances devoting only a single, short paragraph to the discussion of such compliance.</p>	<p>The ESA requires that the Corps consult with the U.S. Fish and Wildlife Service and the National Marine Fisheries Service to assure that impacts on threatened and endangered species or critical habitat are fully considered. The process is referred to as “Section 7”. As with all projects, including LORS, the Corps requested FWS and NMFS to provide a list of potentially impacted species. The Corps then prepared a Biological Assessment of the project’s likely impact on T&amp;E species. In the case for LORS, only species under the jurisdiction of the FWS resulted in a may adversely affect determination. Therefore, the FWS responded in a Biological Opinion for the Everglades snail kite. The Biological Opinion concluded ESA consultation with FWS. Consultation with NMFS did not result in a Biological Opinion, but the Corps has completed all requirements, and is compliance with Section 7 of the ESA (See NMFS letter dated Sep.11, 2007 located in Appendix H, ESA Coordination Section). All coordination efforts with both agencies can be found in Appendix H of the final SEIS. Additionally, a summary of ESA coordination and compliance can be found in the final SEIS Section 6.26.2. The Biological Opinion is located as Appendix C. In reference to the Clean Water Act, the</p>

		Corps has stated in Section 1.9 that a water quality certification from the State is not required. The LORS has been thoroughly coordinated with the State of Florida. Refer to Appendix H for coordination efforts with the State agencies through the State Clearinghouse, which consolidates all State agency comments.
PUR 13	As was true of the previous draft, the Final SEIS Contains no discussion of measures that could mitigate the adverse impacts of lake releases on the Caloosahatchee River and Estuary. While the Preferred Alternative may improve performance on <i>some</i> measures over the No Action Alternative, any of the alternatives evaluated would cause adverse effects during periods of high volume releases, and the Corps should consider ways it could mitigate these effects.	The current infrastructure of the C&SF project provides for lake releases through several structures/outlets, one being the S-77 to the Caloosahatchee River, for flood control purposes. Flood control is an authority of the Corps. Any regulation schedule that would be implemented must allow for discharge of floodwater from Lake Okeechobee to relieve stress and erosion of the levees, including HHD. These floodwater releases can not be avoided altogether. However, the Corps has mitigated by minimizing impacts by developing a plan that will reduce the frequency of high volume releases that may adversely impact the downstream ecosystems. In addition, modeling results indicate that Alternative E has a significantly greater number of months in the acceptable flow range (Section 6.2.2). Another positive addition to the recommended plan is the inclusion of base flow, which is beneficial to the Caloosahatchee Estuary. The ability to provide base flow (low volume releases) would confer environmental benefits to the estuary by providing flow to assist in maintaining the appropriate salinity range.
	Audubon of Florida (12/14/07)	
Aud1	Alternative E tends to keep Lake Okeechobee shallower than desirable for its health. This is acceptable in the short term considering concerns over Hoover Dike safety, and especially in light of the October 30, 2207 “Herbert Hoover Dike Consensus Report” by the external peer review committee that recommended not allowing the lake to exceed 17 feet. Protecting human health and safety must take priority. Audubon supports repairing the Dike as soon as possible, not only for safety reasons, but to be able to return the	The Corps acknowledges your comment.



	lake to higher, more beneficial levels. In spite of the Dike's impairment, the Corps did a commendable job during the LORSS process of protecting the estuaries from increased harm, and even improving some functions to the Caloosahatchee Estuary.	
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